

Senate Bill 156

By: Senators Balfour of the 9th, Cowser of the 46th, Hawkins of the 49th and Stoner of the 6th

AS PASSED

AN ACT

To amend Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, so as to provide that counties, municipal corporations, and other political subdivisions may provide post-employment benefits other than retirement or pension benefits; to define certain terms; to provide that such plans may be prefunded to comply with certain financial reporting, disclosure, and actuarial requirements; to provide that such funds shall be held in trust for the intended purpose; to provide that such funds are declared to be public property exempt from state and local taxation; to create the Board of Regents Retiree Health Benefit Fund; to provide for a trust fund to provide for retiree post-employment health care benefits; to define certain terms; to provide for the powers and duties of the Board of Regents of the University System of Georgia; to provide for actuarial services; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Title 47 of the Official Code of Georgia Annotated, relating to retirement and pensions, is amended by revising subsection (h) of Code Section 47-20-10, relating to minimum annual employer contributions, as follows:

"(h) The minimum funding requirements of this Code section shall not apply to prefunding, in whole or in part, of anticipated future costs of providing other post-employment benefits as defined by Governmental Accounting Standards Board Statements Number 43 and Number 45 for retired employees of a political subdivision including those presently retired and those anticipated to retire in the future, as provided in Code Section 47-20-10.1. Such prefunding may be maintained as part of the same investment pool as the fund receiving employer and employee contributions to pay the cost of providing retirement benefits under any retirement system maintained by the political subdivision for its employees so long as such funds are separately accounted for and separate records are maintained with respect to each fund. Funds maintained by a political subdivision for the purpose of prefunding other post-employment benefits for retired

employees may be invested and reinvested in accordance with the provisions of Code Section 47-1-12, or Article 7 of Chapter 20 of this title, as applicable, and, for the purposes of that Code section or article and the home rule provisions of the laws and the Constitution of the State of Georgia only, such funds shall be treated in the same manner as retirement funds."

SECTION 2.

Said title is further amended by inserting after Code Section 47-20-10 a new Code section to read as follows:

"47-20-10.1.

(a) Political subdivisions are authorized to establish plans to provide for payment of other post-employment benefits, as defined by Governmental Accounting Standards Board Statements Number 43 and Number 45 for their eligible present and future retirees and other related expenses as described herein. Such benefits may be prefunded by irrevocable trusts or other authorized funding mechanisms subject to the financial reporting, disclosure, and actuarial requirements of Governmental Accounting Standards Board Statements Number 43 and Number 45 or any subsequent Governmental Accounting Standards Board updates or statements that may be applicable. Except as otherwise provided under subsection (c) of this Code section, the plan and assets of any trust or fund so established may be under the governance and investment authority of a retirement system maintained by the political subdivision or other board of trustees established for such purpose; provided, however, that the assets of any other post-retirement benefit plan, trust, or fund shall be separately accounted for and separate records shall be maintained. The prefunded amounts shall be available without fiscal year limitations for other post-employment benefits, as defined by Governmental Accounting Standards Board Statements Number 43 and Number 45, and administration costs. All employer contributions, plan participant contributions, appropriations, earnings, and reserves for the payment of obligations under the plan shall be credited to such trust or fund. The amounts remaining in such trust or fund, if any, after other post-employment benefit expenses and administration costs have been paid in any year shall be retained in such trust or fund for future payments until the satisfaction of all plan liabilities under the trust or fund for other post-employment benefits. All prefunded amounts shall be used solely for the payment of plan benefits and administrative costs and for no other purpose.

(b) Prefunded assets of whatever kind or nature of any other post-employment benefit plan or trust, and the earnings or proceeds derived from such investments or assets, are limited

to paying other post-employment benefits and administrative costs and are declared to be public property and exempt from taxation by this state, or by any political subdivision of this state, and exempt from levy and sale, garnishment, attachment, or any other process whatsoever.

(c) Employers who are eligible to participate in the Georgia Municipal Employees Benefit System created by Chapter 5 of this title may establish or participate in another post-employment benefit plan, trust, or fund under the governance and investment authority of the board of trustees of the Georgia Municipal Employees Benefit System, notwithstanding any provision of this Code section or Code Section 47-20-10 to the contrary. The assets of any such plan, trust, or fund under the governance and investment authority of the board of trustees of the Georgia Municipal Employees Benefit System may be maintained as part of the same investment pool as the system retirement fund and invested pursuant to the applicable provisions of Article 7 of Chapter 20 of Title 47, notwithstanding any provision of subsection (c) of Code Section 47-5-28 to the contrary, so long as the assets of the plan, trust, or fund and the Georgia Municipal Employees Benefit System retirement fund are separately accounted for and separate records are maintained for the plan, trust, or fund and the Georgia Municipal Employees Benefit System retirement fund."

SECTION 3.

Said title is further amended by revising Chapter 21, the "Regents Retirement Plan Act," by designating the existing provisions of said chapter as Article 1 and by adding a new article to read as follows:

"ARTICLE 2

47-21-20.

As used in this article, the term:

- (1) 'Actuarial assumptions' means assumptions regarding the occurrence of future events affecting costs of the fund such as mortality, withdrawal, disability, and retirement; changes in compensation and offered post-employment benefits; rates of investment earnings and asset appreciation or depreciation; procedures used to determine the actuarial value of assets; and other relevant items.
- (2) 'Actuarially sound' means that calculated contributions to the fund are sufficient to pay the full actuarial cost of the fund. The full actuarial cost includes both the normal

cost of providing for fund obligations as they accrue in the future and the cost of amortizing the unfunded actuarial accrued liability over a period of no more than 30 years.

(3) 'Administrative expenses' means all expenses incurred in the operation of the fund, including all investment expenses.

(4) 'Annual required contribution' means the amount determined in accordance with requirements of Governmental Accounting Standards Board Statement No. 43, or any subsequent Governmental Accounting Standards Board statements that may be applicable to the fund.

(5) 'Board' means the Board of Regents of the University System of Georgia.

(6) 'Covered health care expenses' means all actual health care expenses incurred by the health plan with respect to fund beneficiaries. Actual health care expenses include claims incurred with respect to fund beneficiaries and premiums incurred with respect to intermediary entities and health care providers by the health plan.

(7) 'Employer' means the Board of Regents of the University System of Georgia and any department or institution of thereof that employs persons who are eligible to participate in the health plan.

(8) 'Fund' means the Board of Regents Retiree Health Benefit Fund established under this article.

(9) 'Health plan' means the board's health insurance plans established pursuant to authority granted to the board pursuant to Code Sections 20-3-31 and 20-3-51.

(10) 'Obligations' means the administrative expenses of the fund and the cost of covered health care expenses incurred on behalf of fund beneficiaries less any amounts received by or on behalf of fund beneficiaries.

47-21-21.

(a) There is created the Board of Regents Retiree Health Benefit Fund to provide for the employer costs of retiree post-employment health insurance benefits. The fund shall be a trust fund of public funds. The board in its official capacity shall be its trustee and the Chancellor in his or her official capacity shall be its administrator.

(b) The fund shall be available and dedicated without fiscal year limitations for covered health care expenses and administration costs. All employer and retiree contributions, appropriations, earnings, and reserves for the payment of obligations under this article shall be irrevocably credited to such fund. The amounts remaining in such fund, if any, after such health care expenses and administration costs have been paid shall be retained in such

fund as a special reserve for covered health care expenses and administration costs. The board shall determine the time and amounts of distributions from the special reserve for covered health care expenses and administration costs. All assets of the fund shall be used solely for the payment of fund obligations and for no other purpose and shall be protected from creditors of the state and the board.

47-21-22.

(a) Responsibility for the proper operation of the fund is vested in the board.

(b) The board shall:

- (1) Adopt actuarial assumptions as necessary and prudent;
- (2) Employ such personnel as may be needed to carry out the provisions of this article and such personnel shall be employees of the board. The pro rata share of the costs of operating the board in the manner prescribed by law shall be a part of the administrative costs of the fund;
- (3) Maintain all necessary records regarding the fund in accordance with generally accepted accounting principles, as applied to the fund;
- (4) Collect all moneys due to the fund and shall pay any administrative expenses necessary and appropriate for the operation of the fund from the fund; and
- (5) Cause to be prepared an annual report of fund activities. Such report shall include, but not be limited to, audited financial statements.

(c) The board may:

- (1) Adopt any rules and regulations that it finds necessary to properly administer the fund;
- (2) Employ or contract for the services of actuaries and other professionals as required to carry out the duties established by this article; and
- (3) Contract with the Division of Investment Services of the Teachers Retirement System of Georgia or such other investment advisors as deemed appropriate and prudent by the board for any necessary services with respect to fund investments.

(d) Notwithstanding any other provision of law to the contrary, the board shall be entitled to any information that it deems necessary and appropriate from a university employee retirement system in order that the provisions of this article may be carried out.

47-21-23.

(a) The actuary employed or retained by the board shall provide technical advice to the board regarding the operation of the fund.

(b) Utilizing the actuarial assumptions most recently adopted by the board, the actuary shall set the annual actuarial present values for the state plan for other post-employment benefits.

47-21-24.

(a) The board shall have control over the fund established by this article. The provisions provided for in this article and all administrative expenses shall be paid from the fund. The board may expend moneys from the fund for any purpose authorized by this article.

(b) The board shall have full power to invest and reinvest its assets, subject to all of the terms, conditions, limitations, and restrictions imposed by Article 7 of Chapter 20 of Title 47, the 'Public Retirement Systems Investment Authority Law.' Subject to such terms, conditions, limitations, and restrictions, the board shall have full power to hold, purchase, sell, assign, transfer, and dispose of any securities and investments in which any of the moneys are invested, including the proceeds of any investments and other moneys belonging to the fund.

(c) Except as otherwise provided in this chapter, no member or employee of the board shall have any personal interest in the gains or profits from any investment made by the board or use the assets of the fund in any manner, directly or indirectly, except to make such payments as may be authorized by the board in accordance with this article.

47-21-25.

(a) The board shall annually determine the minimum annual required contributions sufficient to maintain the fund in an actuarially sound manner in accordance with Governmental Accounting Standards Board Statement No. 43, or any subsequent Governmental Accounting Standards Board statements that may be applicable to the fund.

(b) The board may annually establish employer contribution rates for the purpose of establishing the health plan from fiscal year to fiscal year and additional employer contribution rates in accordance with the health plan for other post-employments benefits.

(c) It shall be the responsibility of employers to make contributions to the fund in accordance with the employer contribution rates established by the board."

SECTION 4.

All laws and parts of laws in conflict with this Act are repealed.